

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WILLIAM DINDER and KRISTEN DINDER,

Plaintiffs,

v.

STEWART INDUSTRIES, LLC, NESTLÉ
PURINA PETCARE COMPANY d/b/a and/or
NESTLÉ FOOD COMPANY, and JOHN
BEAN TECHNOLOGIES CORPORATION,

Defendant.

No. _____

NOTICE OF REMOVAL

Defendant, John Bean Technologies Corporation (“JBT”), by and through its undersigned counsel, hereby removes the case captioned *William Dinder and Kristen Dinder v. Stewart Industries, LLC, Nestlé Purina Petcare Company d/b/a, and/or Nestlé Food Company, and John Bean Technologies Corporation*, Court of Common Pleas of Philadelphia County, Pennsylvania, Case No. 140603019, to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1332(a)(1), and in support thereof states as follows:

INTRODUCTION

1. William Dinder (“William”) and Kristen Dinder (“Kristen”) (collectively, “Plaintiffs”) filed a Complaint-Civil Action (the “Complaint”) in the Court of Common Pleas of Philadelphia County, Pennsylvania, on June 20, 2014, a copy of which was subsequently served on JBT on June 27, 2014. A copy of the Complaint is attached as Exhibit 1.

2. The Complaint alleges that on or about July 23, 2012, while in the course and scope of his employment as an ironworker on a construction project at 2050 Pope Road, Allentown, Pennsylvania, William sustained personal injuries when he descended an A-frame ladder and caught his leg on a tie wire. *See* Ex. 1 at ¶¶6-15. The Complaint alleges William

suffered traumatic brain injury and a concussion, injuries to his right knee and back, and nerve damage. *Id.* at ¶20. Kristen, who is alleged to be William's wife, seeks recovery for loss of consortium. *Id.* at ¶¶39-41.

3. The Complaint is styled in four counts as follows: (I) "Negligence – William Dinder v. Stewart Industries, LLC"; (II) "Negligence – William Dinder v. Nestlé Purina Petcare Company"; (III) "Negligence – William Dinder v. John Bean Technologies Corporation"; and (VIII) [sic] "Loss of Consortium – Kristen Dinder v. All Defendants." *See* Ex. 1.

4. Plaintiffs allege they reside in Allentown, Pennsylvania. *See* Ex. 1 at ¶1.

5. JBT is a Delaware corporation that maintains its principal place of business and corporate headquarters in Chicago, Illinois. *See* Ex. 1 at ¶4. Accordingly, JBT is a citizen of Delaware and Illinois and no other state.

6. With regard to Defendant Stewart Industries, LLC ("Stewart Industries"), on information and belief, it appears they were named in error. Regardless, as alleged by Plaintiffs, Stewart Industries is a "corporation organized and existing under and by virtue of the laws of the State of Michigan" with an address of "Stewart Industries, LLC, 150 McQuiston Drive, Battle Creek, Michigan 49037." *See* Ex. 1 at ¶2 and p. 1. As such, Stewart Industries is a citizen of Michigan and no other state.

7. Stewart Industrial Maintenance, LLC ("SIM") is, on information and belief, the party Plaintiffs apparently intended to sue in their Complaint and who they served. SIM is a Kentucky corporation that maintains a principal place of business in Owensboro, Kentucky along with its members. As such, SIM is a citizen of Kentucky and no other state.

8. Defendant Nestlé Purina Petcare Company d/b/a and/or Nestlé Food Company ("Nestlé") is a Missouri corporation that maintains its principal place of business and corporate

headquarters in St. Louis, Missouri. Accordingly, Nestlé is a citizen of Missouri and no other state.

9. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs.

JURISDICTION

10. Based on the foregoing, this District Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because Plaintiffs are citizens of Pennsylvania, JBT is a citizen of Delaware and Illinois, Stewart Industries is a citizen of Michigan (and SIM is a citizen of Kentucky), and Nestlé is a citizen of Missouri. Complete diversity exists under 28 U.S.C. § 1332(a)(1). Furthermore, the amount-in-controversy requirement is met. For these reasons, the action is removable to this District Court by virtue of the provisions of 28 U.S.C. § 1441(a).

11. Removal to this District Court is proper pursuant to 28 U.S.C. § 1441(a) because the action was originally filed in the Court of Common Pleas of Philadelphia County, Pennsylvania. *See* 28 U.S.C. § 1441(a) (stating that a civil action “may be removed . . . to the district court of the United States for the district and division embracing the place where such action is pending.”).

TIMING OF REMOVAL

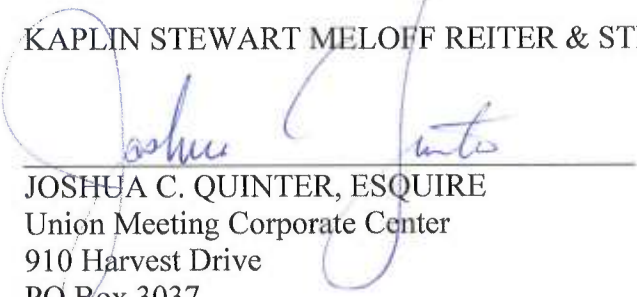
12. JBT was served with the summons and Complaint by certified mail on June 27, 2014. Removal is timely because JBT filed this Notice of Removal “within thirty days after receipt by the defendant[s] . . . of a copy of the initial pleading” *See* 28 U.S.C. § 1446(b)

13. SIM and Nestlé, the only other parties known to have been served, have consented to the removal of this action pursuant to 1446(b)(2)(A). *See* Exhibits 2 and 3, respectively.

14. A copy of this Notice of Removal is being filed with the Clerk of the Court of Common Pleas of Philadelphia County, Pennsylvania, in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendant, John Bean Technologies Corporation, respectfully requests that this action be removed, without waiver of procedural or substantive defenses, from the Court of Common Pleas of Philadelphia County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania for all purposes.

KAPLIN STEWART MELOFF REITER & STEIN, PC



JOSHUA C. QUINTER, ESQUIRE
Union Meeting Corporate Center
910 Harvest Drive
PO Box 3037
Blue Bell, PA 19422
610-941-2521

Attorneys for Defendant
John Bean Technologies Corporation

Dated: July 25, 2014

EXHIBIT 1

Court of Common Pleas of Philadelphia County
Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

JUNE 2014

003019

Filing Number: 1486041000

PLAINTIFF'S NAME WILLIAM DINDER		DEFENDANT'S NAME STEWART INDUSTRIES, LLC	
PLAINTIFF'S ADDRESS 4208 CREEK ROAD ALLENTOWN PA 18104		DEFENDANT'S ADDRESS 150 MCQUISTON DRIVE BATTLE CREEK MI 49037	
PLAINTIFF'S NAME KRISTEN DINDER		DEFENDANT'S NAME NESTLE PURINA PETCARE COMPANY, ALIAS: NESTLE FOOD COMPANY	
PLAINTIFF'S ADDRESS 4208 CREEK ROAD ALLENTOWN PA 18104		DEFENDANT'S ADDRESS 2050 POPE ROAD ALLENTOWN PA 18104	
PLAINTIFF'S NAME		DEFENDANT'S NAME JOHN BEAN TECHNOLOGIES CORPORATION	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 70 WEST MADISON STREET SUITE 4400 CHICAGO IL 60602	
TOTAL NUMBER OF PLAINTIFFS 2	TOTAL NUMBER OF DEFENDANTS 3	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE 20 - PERSONAL INJURY - OTHER			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
		FILED PROTHONOTARY JUN 20 2014 K. EDWARDS	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>WILLIAM DINDER , KRISTEN DINDER</u> Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY LARRY E. BENDESKY		ADDRESS ONE LIBERTY PLACE 1650 MARKET STREET 52ND FLOOR PHILADELPHIA PA 19103	
PHONE NUMBER (215) 575-2952	FAX NUMBER (215) 496-0999		
SUPREME COURT IDENTIFICATION NO. 51026		E-MAIL ADDRESS lbendesky@smbb.com	
SIGNATURE OF FILING ATTORNEY OR PARTY LARRY BENDESKY		DATE SUBMITTED Friday, June 20, 2014, 03:37 pm	

FINAL COPY (Approved by the Prothonotary Clerk)

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.
BY: LARRY BENDESKY/ADAM J. PANTANO/ ROBERT
W. ZIMMERMAN
 IDENTIFICATION NO.: 51026/85261/208410
 52ND FLOOR
 1650 MARKET STREET
 PHILADELPHIA, PA 19103
 (215) 496-8282



WILLIAM DINDER and KRISTEN
DINDER, h/w
 4208 Creek Road
 Allentown, PA 18104

PHILADELPHIA COUNTY
 COURT OF COMMON PLEAS
 LAW DIVISION

Plaintiffs
 vs.

TERM, 2014

No.

STEWART INDUSTRIES, LLC
 150 McQuiston Drive
 Battle Creek, MI 49037
 And

JURY TRIAL DEMANDED

NESTLÉ PURINA PETCARE COMPANY,
d/b/a and/or NESTLÉ FOOD COMPANY
 2050 Pope Road
 Allentown, PA 18104
 And

JOHN BEAN TECHNOLOGIES
CORPORATION
 70 West Madison Street, Suite 4400
 Chicago, IL 60602

Defendants

COMPLAINT – CIVIL ACTION

"NOTICE"	"AVISO"
<p>"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.</p>	<p>"Le han demandado en corte. Si usted quiere defenderse contra las demandas nombradas en las páginas siguientes, tiene veinte (20) días, a partir de recibir esta demanda y la notificación para entablar personalmente o por un abogado una comparecencia escrita y también para entablar con la corte en forma escrita sus defensas y objeciones a las demandas contra usted. Sea avisado que si usted no se defiende, el caso puede continuar sin usted y la corte puede incorporar un juicio contra usted sin previo aviso para conseguir el dinero demandado en el pleito o para conseguir cualquier otra demanda o alivio solicitados por el demandante. Usted puede perder dinero o propiedad u otros derechos importantes para usted.</p>
<p>"YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.</p> <p><u>THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.</u> <u>IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A</u></p>	<p>USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE ABOGADO (O NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO), VAYA EN PERSONA O LLAME POR TELEFONO LA OFICINA NOMBRADA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL. <u>ESTA OFICINA PUEDE PROPORCIONARLE LA INFORMACION SOBRE CONTRATAR A UN ABOGADO.</u></p> <p><u>SI USTED NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO, ESTA OFICINA PUEDE PROPORCIONARLE INFORMACION SOBRE AGENCIAS QUE OFRECEN SERVICIOS LEGALES A PERSONAS</u></p>

Case ID: 140603019

<p><u>REDUCED FEE OR NO FEE.</u> PHILADELPHIA BAR ASSOCIATION LAWYER REFERRAL and INFORMATION SERVICE One Reading Center Philadelphia, Pennsylvania 19107 (215) 238-1701"</p>	<p><u>QUE CUMPLEN LOS REQUISITOS PARA UN HONORARIO REDUCIDO O NINGUN HONORARIO.</u> ASOCIACION DE LICENCIADOS DE FILADELFIA SERVICIO DE REFERENCIA E INFORMACION LEGAL One Reading Center Filadelfia, Pennsylvania 19107 Telefono: (215) 238-1701"</p>
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1. Plaintiffs William and Kristen Dinder are adult individuals residing at the above captioned address.

2. Defendant Stewart Industries, LLC ("Stewart"), is a corporation organized and existing under and by virtue of the laws of the State of Michigan, in which, at all relevant times herein, engaged in business within the County of Philadelphia, Commonwealth of Pennsylvania, on a regular, systematic, continuous and substantial basis with a place of business at the above captioned address.

3. Defendant Nestlé Purina Petcare Company, d/b/a and/or Nestlé Food Company ("Nestlé"), is a corporation organized and existing under and by virtue of the laws of the State of Missouri, in which, at all relevant times herein, engaged in business within the County of Philadelphia, Commonwealth of Pennsylvania, on a regular, systematic, continuous and substantial basis with a place of business at the above captioned address.

4. Defendant John Bean Technologies Corporation ("JBT"), is a corporation organized and existing under and by virtue of the laws of the State of Illinois, in which, at all relevant times herein, engaged in business within the County of Philadelphia, Commonwealth of Pennsylvania, on a regular, systematic, continuous and substantial basis with a place of business at the above captioned address.

5. At all relevant times, Defendants were acting by and through their agents, servants and/or employees who were acting within the course and scope of their agency, service and/or employment with Defendants.

6. On or about July 23, 2012, plaintiff, William Dinder, was an ironworker working at a construction project at 2050 Pope Road, Allentown, PA 18104 (hereinafter referred to as the "Project").

7. At all relevant times hereto Nestlé owned the building where the Project commenced, and established safety plans and conducted safety training for contractors performing work at the facility.

8. Defendants Stewart and JBT performed work at the project, and at all times were responsible for inspection and supervision of the work.

9. On the Project, Plaintiff was required to perform work on a boiler at the facility.

10. To reach the boiler, Plaintiff was required to ascend and descend a ladder.

11. The subject ladder was not placed, set, or secured by Plaintiff.

12. The subject ladder was placed, set, and/or secured by Defendants.

13. At all relevant times, Defendants were responsible for ensuring that the tools and materials being used at the Project complied with all Federal and State safety regulations, including but not limited to OSHA regulations.

14. At all relevant times, Defendants were responsible for ensuring that hazards on the project were identified and corrected prior to worker injuries.

15. On the date and place aforesaid, while properly and lawfully working within the course and scope of his employment, plaintiff sustained permanent and serious personal injuries when he descended an A frame ladder and caught his leg on a tie wire, due to the negligence, carelessness or other liability producing conduct of the defendants.

16. The A frame ladder was improperly used as an extension type ladder at the time of the accident.

17. The A frame ladder's placement was non-compliant with OSHA

18. The exposed tie wire created a tripping hazard for those workers ascending and descending the ladder.

19. The aforesaid accident was in no manner whatsoever caused by any act or failure to act on the part of Plaintiff, but was caused solely and exclusively by the negligence and carelessness of the Defendants.

20. Solely and as a direct result of the carelessness, negligence and other liability producing conduct of Defendants, Plaintiff sustained serious, severe and permanently disabling injuries, including but not limited to: traumatic brain injury and concussion; right knee injury requiring surgical repair; cervical and lumbar injuries; nerve damage; he has undergone numerous x-rays and MRIs; he has undergone extensive therapy; he has been prescribed various medications; he has sustained emotional, psychological and psychiatric injuries; he has sustained other psychological, psychiatric, orthopedic and neurological injuries, the full extent of which have yet to be determined; he has in the past required and will in the future continue to require surgeries, medicines, medical care and treatment; he has in the past been and may in the future continue to incur expenses for medical care and treatment; he has in the past suffered and will in the future continue to suffer agonizing aches, pain and mental anguish; he sustained a loss of earnings and a loss of earning capacity; he sustained loss of enjoyment of life and loss of life's pleasure; he has in the past and may in the future continue to be totally disabled from performing his usual duties and occupations all to his loss and detriment.

COUNT I – NEGLIGENCE

WILLIAM DINDER v. STEWART INDUSTRIES, LLC

21. Plaintiff incorporates all preceding paragraphs herein.

22. At all relevant times herein and material hereto, Defendant Stewart undertook the supervision of the work which was being undertaken at the Project, and in connection therewith established plans, recommendations, designs, inspection and safety procedures and specifications for the performance of said construction work.

23. Defendant Stewart, having undertaken the inspection and supervision of the Project, owed a duty to those persons engaged in the performance of said construction work, including plaintiff, a business invitee, to provide a reasonably safe environment, free from unreasonable and dangerous hazards, within which to perform the construction work.

24. Defendant Stewart knew or should have known that allowing A frames to be used when they were improperly placed, set, and/or secured would cause injuries at construction sites; as such, Defendant failed to enact or implement proper specifications or specific measures to prevent improper ladder placement which would create a dangerous condition thereby risking injury to workers at the Project.

25. Defendant Stewart, by and through its agents, servants, workmen and/or employees were careless and negligent in:

- a. failing to provide plaintiff, a business invitee, with a safe place in which to work;
- b. failing to adequately inspect the Project for hazardous conditions;
- c. failing to adequately plan, plot and supervise the construction work;
- d. violating applicable OSHA regulations including but not limited to 29 CFR 1910 and 29 CFR 1926;

- e. breaching its duties under the Restatement of the Law of Torts (Second) including but not limited to 343, 343A, 364, 365, 411, 412, 413, 414A and 415;
- f. failing to properly train and supervise its own employees and contractors employees;
- g. failing to hire competent employees, safety inspectors, contractors and subcontractors;
- h. failing to warn plaintiff, a business invitee, of the peculiar, dangerous and unsafe conditions then and there existing upon the construction site premises;
- i. failing to adopt, enact, employ and enforce proper and adequate safety equipment, programs, precautions, procedures, measures and plans;
- j. failing to perform and furnish services in conformity with the standard of care then and there prevailing in the industry at the time said services were performed and furnished;
- k. performing and furnishing services in a wholly inadequate and negligent manner;
- l. failing to properly supervise the work;
- m. failing to perform a Safety Task Analysis;
- n. failing to require and enforce a requirement that workers sign off on site specific safety rules;
- o. failing to properly inspect ladders to ensure they were properly set, placed, and secured;
- p. failing to properly inspect ladders to ensure the correct type of ladder was used;
- q. failing to properly inspect ladders to ensure the correct type of securing devices were used;
- r. failing to properly inspect ladders to ensure the securing devices did not pose a hazard to workers ascending and descending the ladder;
- s. failing to coordinate with other entities on the premises; and
- t. failing to alert plaintiff that the ladder and its securement devices created a hazard.

26. Defendant's actions and/or in-actions were substantial factors and/or factual causes and/or increased the risk of harm to plaintiff.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally in an amount in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit.

COUNT II – NEGLIGENCE

WILLIAM DINDER v. NESTLÉ PURINA PETCARE COMPANY

27. Plaintiff incorporates all preceding paragraphs herein.

28. At all relevant times herein and material hereto, Defendant Nestle undertook the supervision of the work which was being undertaken at the Project, and in connection therewith established plans, recommendations, designs, inspection and safety procedures and specifications for the performance of said construction work.

29. Defendant Nestle, having undertaken the inspection and supervision of the Project, owed a duty to those persons engaged in the performance of said construction work, including plaintiff, a business invitee, to provide a reasonably safe environment, free from unreasonable and dangerous hazards, within which to perform the construction work.

30. Defendant Nestle knew or should have known that allowing A frames to be used when they were improperly placed, set, and/or secured would cause injuries at construction sites; as such, Defendant failed to enact or implement proper specifications or specific measures to prevent improper ladder placement which would create a dangerous condition thereby risking injury to workers at the Project.

31. Defendant Nestle, by and through its agents, servants, workmen and/or employees were careless and negligent in:

- a. failing to provide plaintiff, a business invitee, with a safe place in which to work;
- b. failing to adequately inspect the Project for hazardous conditions;
- c. failing to adequately plan, plot and supervise the construction work;
- d. violating applicable OSHA regulations including but not limited to 29 CFR 1910 and 29 CFR 1926;
- e. breaching its duties under the Restatement of the Law of Torts (Second) including but not limited to 343, 343A, 364, 365, 411, 412, 413, 414A and 415;
- f. failing to properly train and supervise its own employees and contractors employees;
- g. failing to hire competent employees, safety inspectors, contractors and subcontractors;
- h. failing to warn plaintiff, a business invitee, of the peculiar, dangerous and unsafe conditions then and there existing upon the construction site premises;
- i. failing to adopt, enact, employ and enforce proper and adequate safety equipment, programs, precautions, procedures, measures and plans;
- j. failing to perform and furnish services in conformity with the standard of care then and there prevailing in the industry at the time said services were performed and furnished;
- k. performing and furnishing services in a wholly inadequate and negligent manner;
- l. failing to properly supervise the work;
- m. failing to perform a Safety Task Analysis;
- n. failing to require and enforce a requirement that workers sign off on site specific safety rules;
- o. failing to properly inspect ladders to ensure they were properly set, placed, and secured;

- p. failing to properly inspect ladders to ensure the correct type of ladder was used;
- q. failing to properly inspect ladders to ensure the correct type of securing devices were used;
- r. failing to properly inspect ladders to ensure the securing devices did not pose a hazard to workers ascending and descending the ladder;
- s. failing to coordinate with other entities on the premises; and
- t. failing to alert plaintiff that the ladder and its securement devices created a hazard.

32. Defendant's actions and/or in-actions were substantial factors and/or factual causes and/or increased the risk of harm to plaintiff.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally in an amount in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit.

COUNT III – NEGLIGENCE

WILLIAM DINDER v. JOHN BEAN TECHNOLOGIES CORPORATION

33. Plaintiff incorporates all preceding paragraphs herein.

34. At all relevant times herein and material hereto, Defendant JBT undertook the supervision of the work which was being undertaken at the Project, and in connection therewith established plans, recommendations, designs, inspection and safety procedures and specifications for the performance of said construction work.

35. Defendant JBT, having undertaken the inspection and supervision of the Project, owed a duty to those persons engaged in the performance of said construction work, including plaintiff, a business invitee, to provide a reasonably safe environment, free from unreasonable and dangerous hazards, within which to perform the construction work.

36. Defendant JBT knew or should have known that allowing A frames to be used when they were improperly placed, set, and/or secured would cause injuries at construction sites; as such, Defendant failed to enact or implement proper specifications or specific measures to prevent improper ladder placement which would create a dangerous condition thereby risking injury to workers at the Project.

37. Defendant JBT, by and through its agents, servants, workmen and/or employees was careless and negligent in:

- a. failing to provide plaintiff, a business invitee, with a safe place in which to work;
- b. failing to adequately inspect the Project for hazardous conditions;
- c. failing to adequately plan, plot and supervise the construction work;
- d. violating applicable OSHA regulations including but not limited to 29 CFR 1910 and 29 CFR 1926;
- e. breaching its duties under the Restatement of the Law of Torts (Second) including but not limited to 343, 343A, 364, 365, 411, 412, 413, 414A and 415;
- f. failing to properly train and supervise its own employees and contractors employees;
- g. failing to hire competent employees, safety inspectors, contractors and subcontractors;
- h. failing to warn plaintiff, a business invitee, of the peculiar, dangerous and unsafe conditions then and there existing upon the construction site premises;
- i. failing to adopt, enact, employ and enforce proper and adequate safety equipment, programs, precautions, procedures, measures and plans;
- j. failing to perform and furnish services in conformity with the standard of care then and there prevailing in the industry at the time said services were performed and furnished;
- k. performing and furnishing services in a wholly inadequate and negligent manner;
- l. failing to properly supervise the work;

- m. failing to perform a Safety Task Analysis;
- n. failing to require and enforce a requirement that workers sign off on site specific safety rules;
- o. failing to properly inspect ladders to ensure they were properly set, placed, and secured;
- p. failing to properly inspect ladders to ensure the correct type of ladder was used;
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- r. failing to properly inspect ladders to ensure the securing devices did not pose a hazard to workers ascending and descending the ladder;
- s. failing to coordinate with other entities on the premises; and
- t. failing to alert plaintiff that the ladder and its securement devices created a hazard.

38. Defendant's actions and/or in-actions were substantial factors and/or factual causes and/or increased the risk of harm to plaintiff.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally in an amount in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit.

COUNT VIII- LOSS OF CONSORTIUM
KRISTEN DINDER V. ALL DEFENDANTS

39. All preceding paragraphs of this Complaint are incorporated here.

40. Kristen Dinder is married to William Dinder, and resides with him in the address listed above.

41. Solely as a result of Defendants' conduct, Mrs. Dinder has suffered the following damages:

- a. She has been and will be required to expend large sums of money for her husband's surgical and medical care, hospitalization, medical supplies, surgical appliances, medicines, and attendant services.

b. She has been and will in the future be deprived of the services, assistance, and companionship of her husband.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally in an amount in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit.

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

BY: /s/ Larry Bendesky
LARRY BENDESKY
ADAM J. PANTANO
ROBERT W. ZIMMERMAN
Attorneys for Plaintiffs

VERIFICATION

The averments or denials of fact contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of the 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.


WILLIAM DINDER

VERIFICATION

The averments or denials of fact contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of the 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.


KRISTEN DINDER

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM DINDER and
KRISTEN DINDER, h/w
Plaintiffs

v.

STEWART INDUSTRIES, LLC and
NESTLE PURINA PETCARE COMPANY,
d/b/a and/or NESTLE FOOD COMPANY
and JOHN BEAN TECHNOLOGIES
CORPORATION

Defendants

: CIVIL ACTION - LAW

: NO.

: JURY TRIAL DEMANDED

CONSENT TO REMOVAL

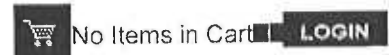
1. Nestle Purina PetCare Company d/b/a and/or Nestle Food Company ("Nestle") has been named as a defendant in the action entitled *William Dinder and Kirsten Dinder, h/w v. Nestle Purina PetCare Company d/b/a and/or Nestle Food Company, et al*, now pending in the Philadelphia County Court of Common Pleas State Court, No. 03019, June 2014 Term.
2. Nestle was first served with a copy of the Complaint on July 8, 2014.
3. Nestle hereby consents to and joins in the removal of this action to the United States District Court for the Eastern District of Pennsylvania.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

By: 

Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
2000 Market Street
Philadelphia, PA 19103
215-575-2600
Attorneys for Defendant,
Nestle Purina PetCare Company d/b/a
and/or Nestle Food Company

DATE: July 23, 2014



Civil Docket Report

A \$5 Convenience fee will be added to the transaction at checkout.

Case Description

Case ID: 140603019
Case Caption: DINDER ETAL VS STEWART INDUSTRIES, LLC ETAL
Filing Date: Friday , June 20th, 2014
Court: MAJOR JURY-STANDARD
Location: City Hall
Jury: JURY
Case Type: PERSONAL INJURY - OTHER
Status: WAITING TO LIST CASE MGMT CONF

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case motions

No case motions were found.

Case Parties

Seq #	Assoc	Expn Date	Type	Name
1			ATTORNEY FOR PLAINTIFF	BENDESKY, LARRY E
Address:	ONE LIBERTY PLACE 1650 MARKET STREET 52ND FLOOR PHILADELPHIA PA 19103 (215)575-2952		Aliases:	<i>none</i>
2	1		PLAINTIFF	DINDER, WILLIAM
Address:	4208 CREEK ROAD		Aliases:	<i>none</i>


Civil Docket Report




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	ALLENTOWN PA 18104			
3	1		PLAINTIFF	DINDER, KRISTEN
Address:	4208 CREEK ROAD ALLENTOWN PA 18104	Aliases:	none	
4			DEFENDANT	STEWART INDUSTRIES, LLC
Address:	150 MCQUISTON DRIVE BATTLE CREEK MI 49037	Aliases:	none	
5			DEFENDANT	NESTLE PURINA PETCARE COMPANY
Address:	2050 POPE ROAD ALLENTOWN PA 18104	Aliases:	NESTLE FOOD COMPANY	
6			DEFENDANT	JOHN BEAN TECHNOLOGIES CORPORATION
Address:	70 WEST MADISON STREET SUITE 4400 CHICAGO IL 60602	Aliases:	none	
7			TEAM LEADER	RAU, LISA M
Address:	ROOM 593 CITY HALL PHILADELPHIA PA 19107 (215)686-3768	Aliases:	none	
8	1		ATTORNEY FOR PLAINTIFF	PANTANO, ADAM J

Address:	SALTZ, MONGELUZZI, BARRETT & B 1650 MARKET ST, 52ND FL ONE LIBERTY PLACE PHILADELPHIA PA 19103 (215)575-2954	Aliases:	none
9	1		ATTORNEY FOR PLAINTIFF
Address:	ONE LIBERTY PLACE, 52ND FLOOR 1650 MARKET STREET PHILADELPHIA PA 19103 (215)496-8282	Aliases:	none
			ZIMMERMAN, ROBERT W

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/Entry Date
20-JUN-2014 03:37 PM	ACTIVE CASE			20-JUN-2014 03:48 PM
Docket Entry:	E-Filing Number: 1406041003			
20-JUN-2014 03:37 PM	COMMENCEMENT CIVIL ACTION JURY	BENDESKY, LARRY E		20-JUN-2014 03:48 PM
Documents:	Click link(s) to preview/purchase the documents Final Cover			
	 Click HERE to purchase all documents related to this one docket entry			
Docket Entry:	none.			
20-JUN-2014 03:37 PM	COMPLAINT FILED NOTICE GIVEN	BENDESKY, LARRY E		20-JUN-2014 03:48 PM

Documents:	Click link(s) to preview/purchase the documents Complaint.pdf				 Click HERE to purchase all documents related to this one docket entry
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED.				
20-JUN-2014 03:37 PM	SHERIFF'S SURCHARGE 3 DEFTS	BENDESKY, LARRY E		20-JUN-2014 03:48 PM	
Docket Entry:	none.				
20-JUN-2014 03:37 PM	JURY TRIAL PERFECTED	BENDESKY, LARRY E		20-JUN-2014 03:48 PM	
Docket Entry:	12 JURORS REQUESTED.				
20-JUN-2014 03:37 PM	WAITING TO LIST CASE MGMT CONF	BENDESKY, LARRY E		20-JUN-2014 03:48 PM	
Docket Entry:	none.				
02-JUL-2014 09:22 AM	ENTRY OF APPEARANCE-CO COUNSEL	PANTANO, ADAM J		02-JUL-2014 11:41 AM	
Documents:	Click link(s) to preview/purchase the documents Entry of Appearance - AJP and RWZ.pdf				 Click HERE to purchase all documents related to this one docket entry
Docket Entry:	ENTRY OF APPEARANCE OF ADAM J PANTANO AND ROBERT W ZIMMERMAN AS CO-COUNSEL FILED. (FILED ON BEHALF OF KRISTEN DINDER AND WILLIAM DINDER)				
02-JUL-2014 09:52 AM	AFFIDAVIT OF SERVICE FILED	PANTANO, ADAM J		02-JUL-2014 01:18 PM	
Documents:	Click link(s) to preview/purchase the documents Certificate of Service - John Bean.pdf				 Click HERE to purchase all documents related to this one docket entry
Docket	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON JOHN BEAN TECHNOLOGIES CORPORATION BY CERTIFIED MAIL, FIRST				

Entry: CLASS REGULAR MAIL ON 06/27/2014 FILED. (FILED ON BEHALF OF KRISTEN DINDER AND WILLIAM DINDER)				
15-JUL-2014 04:00 PM	SHERIFF'S SERVICE	PANTANO, ADAM J		16-JUL-2014 09:39 AM
Documents: Click link(s) to preview/purchase the documents Sheriff Return of Service - Nestle Purina.pdf <div>  Click HERE to purchase all documents related to this one docket entry </div>				
Docket Entry: DEPUTIZED SERVICE OF PLAINTIFF'S COMPLAINT UPON NESTLE PURINA PETCARE COMPANY BY SHERIFF OF LEHIGH COUNTY ON 07/08/2014. (FILED ON BEHALF OF KRISTEN DINDER AND WILLIAM DINDER)				

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EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WILLIAM DINDER and KRISTEN DINDER,

Plaintiffs,

v.

STEWART INDUSTRIES, LLC, NESTLÉ
PURINA PETCARE COMPANY d/b/a and/or
NESTLÉ FOOD COMPANY, and JOHN
BEAN TECHNOLOGIES CORPORATION,

Defendant.

No.

CONSENT TO REMOVAL

1. Stewart Industrial Maintenance, LLC, incorrectly named as Stewart Industries, LLC, was incorrectly named as a defendant in the action entitled *William Dinder and Kristen Dinder, h/w v. Nestle Purina PetCare Company d/b/a and/or Nestle Food Company, et al.*, currently pending in the Philadelphia County Court of Common Pleas under Case No. 03019, June 2014 Term.

2. On information and belief, Plaintiffs mistakenly named Stewart Industries, LLC, a separate and unrelated entity, when they intended to name Stewart Industrial Maintenance, LLC.

3. Stewart Industrial Maintenance, LLC was served with a copy of the Complaint on or July 7, 2014.

4. Stewart Industrial Maintenance, LLC consents to and joins in the removal of this action to the United States District Court for the Eastern District of Pennsylvania.

5. By consenting to the removal of this matter to federal court, Stewart Industrial Maintenance LLC does not waive and expressly reserves all rights, claims, and/or defenses.

**COHEN, SEGLIAS, PALLAS,
GREENHALL & FURMAN, P.C.**

BY: /s/ Jonathan Cass
JONATHAN A. CASS, ESQUIRE
Attorneys for Defendant,
Stewart Industrial Maintenance, LLC
(incorrectly identified as “Stewart Industries, LLC”)

Identification Nos. 76159

United Plaza, 19th Floor
30 South 17th Street
Philadelphia, PA 19103
Telephone: 215-564-1700
Facsimile: 215-564-3066
jcass@cohenseglias.com

Dated: July 24, 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM DINDER and KRISTEN DINDER,

Plaintiffs,

v.

STEWART INDUSTRIES, LLC, NESTLÉ
PURINA PETCARE COMPANY d/b/a and/or
NESTLÉ FOOD COMPANY, and JOHN
BEAN TECHNOLOGIES CORPORATION,

Defendant.

No.

CERTIFICATE OF SERVICE

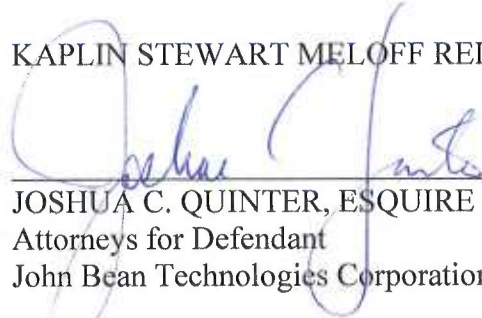
The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Removal was caused to be sent by first class mail, postage prepaid by the undersigned on the date stated below, to the addressees stated below:

Larry Bendesky, Esquire
Adam J. Pantano, Esquire
Robert W. Zimmerman, Esquire
Saltz Mongeluzzi Barrett & Bendesky, PC
1650 Market Street, 52nd Floor
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200 Market Street
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*Attorneys for Defendant Nestle Purina Pet Care Company
d/b/a and/or Nestle Food Company*

KAPLIN STEWART MELOFF REITER & STEIN, PC



JOSHUA C. QUINTER, ESQUIRE
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Dated: July 25, 2014
